

MARYLAND BOARD OF PHARMACY
PUBLIC MINUTES
MEETING OF APRIL 19,2000

The Public Session was called to order by President Stanton G. Ades at 8:42 AM.

Attendance

Commissioners present: Stanton G. Ades, President; Irving Lottier, Secretary, Wayne Dyke, Ramona McCarthy-Hawkins, Rev. William Johnson, Laura Schneider, Dr. Raymond Love, Melvin Rubin, John Balch, and Barbara Faltz-Jackson.

Board Counsel: Paul Ballard, Esq.

Board Staff: LaVerne G. Naesea, Executive Director; Michelle Andoll, Pharmacy Compliance Officer; James Slade, Legislative Officer.

Commissioners absent: Jeanne Gilligan-Furman and Donald Yee.

Guests Present: Robert Feroli, Johns Hopkins Hospital; Laura Borda and Lorraine Sachs, Taro; Thomas Cargiulo, PEAC; Catherine Putz, Division of Drug Control; Howard Schiff, MPhA; Michael Johansen, MACDS; Dorothy Levi, and Nathan Gruz.

Introductions:

President Ades asked guests to introduce themselves.

Recusals:

Members of the Board with a conflict of interest relating to an item on the agenda were asked to notify the Board. There were no recusals.

Approval of Minutes:

The following corrections were made to the Minutes of the March 20, 2000 meeting:

- Page 2 and Page 5 references to Jeanne-Furman spelled her first name incorrectly as >Jean.=
- Page 3 should refer to the Secretary of Health and Mental Hygiene.

Executive Director/Executive Committee Reports:

Ms Naesea reported on staffing updates:

- The position of Legislative Officer will convert to permanent in August 2000. It will continue to be shared with the Board of Social Workers.
- The Board anticipates hiring of a new Licensing Supervisor on or about May 30.

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- The contractual Database Specialist position is expected to become full time, with 50% of his time shared with the Board of Social Workers.
- State personnel denied the request for the position of Licensing Secretary II to be upgraded to Licensing Secretary III. The Board staff will resubmit its' request for an upgrade of the position to Office Secretary III after the strategic plan is completed.
- The position of Office Secretary II -Licensing Renewal Secretary is expected to be approved and filled on or about May 30.
- The Board of Pharmacy now has the services of Linda Bethman, a staff attorney in the Attorney Generals office, for 1/3 of her full time position, shared with two other Boards. She will assist Board Counsel Paul Ballard with legal matters that require the Board's attention. She will be attending the National Association of Attorney General's meeting in Michigan where Internet issues will be discussed.
- Ms Naesea called attention to the new format and binding of the Board packets.
- The attention of Board members was drawn to the information relating to the upcoming National Association of Boards of Pharmacy meeting in Nashville, Tenn., May 6-10. Commissioners Gilligan-Furman and Dyke are the delegate and alternate, respectively that will represent the Maryland Board of Pharmacy. Ms Faltz- Jackson mentioned that NABP is seeking consumer participation. She is expected to attend also.
- Executive Director Naesea and Commissioners Schneider and Love met with Dean Knapp and faculty members of the University of Maryland School of Pharmacy in a renewal of the planned quarterly meetings of the Board and the School. Discussions included the pharmacist rehabilitation program as it applies to both pharmacists and students, and the coordination of the Board examinations with the School graduation schedule.
- The discipline data base program is completed and ready for testing. The reporting of discipline information as required by the federal HIPDB (Healthcare Integrity and Protection Data Bank) link with PEAC will be tested.
- Executive Director Naesea reminded Board members of the upcoming Maryland Pharmacist Association Convention in Ocean City in June 2000.
- The Nurse Midwives, advanced practice nurses, have requested time at a future Board meeting to discuss the changes they have proposed in their formulary. The midwife group must consult with the Board of Pharmacy before changing the listing of drugs or drug categories that they may prescribe. Meetings of Board members and the nurse midwives group have been held and the Board wants to limit the formulary to medications needed within the scope of their practice. It is anticipated that they will attend the June, 2000 Board meeting. The Board discussed exploring a meeting with the Board of Nursing and representatives of the

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Nurse Practitioners, along with the Nurse Midwives. Commissioner Love asked that a notice be posted on our website about the Nurse Midwives discussion at the upcoming June Public Board Meeting.

- The Board of Physicians and Quality Assurance (BPQA) submitted a database format and report on the types of prescriptions that various Physician Assistants (PA) can write. This was required by State Law which passed last year. The Board determined that pharmacists that inquire about PA's eligibility to write prescriptions should be referred to the BPQA. According to the Division of Drug Control, however, PA's are still not approved by the Federal Attorney General to write prescriptions.
- Both the School of Pharmacy and the Maryland Pharmacists Association were contacted by WBAL TV about the ease in which they were able to obtain confidential information from pharmacies without the permission of the patient. Howard Schiff, Executive Director of MPhA, was interviewed by the station. The Board of Pharmacy has developed a transmittal that was sent to pharmacies on this subject, and also posted the transmittal on the Boards Web Site. Commissioner Schneider mentioned that patient names must be blanked out on bottles of Rezulin that are being sent back due to a recall. The Board will continue to remind pharmacists about confidentiality issues including treatment of logs, trash, and returns through reverse wholesalers, etc. Guest Catherine Putz, of the Division of Drug Control mentioned the problem of pharmacists returning medications, not picked up by patients, to the shelf for re-use, either leaving it in bottles without expiration dates or lot numbers or placing it in bottles with other expiration dates/lot numbers.
- Howard Schiff asked the Board to purchase the new, expanded law books for all pharmacies when it is completed in 2001.

Motion: On motion from Commissioner McCarthy-Hawkins, seconded by Commissioner Love, the Board voted to allocate funds to purchase and distribute the law books, which will include sections explaining the meaning of the laws.

- Director Naesea reported on the planned Board Strategic Planning retreat June 24 and 25, which will include the development of the Board's AManaging for Results Plan.≡ She is working with the University of Baltimore on the planning program.

Guest Presenters: none

Board Counsel Report:

Counsel Paul Ballard reported on the question of the legal ability of nurses to dispense take home doses of Methadone at public health clinics. Mr. Ballard said that the statute addressing dispensing at these clinics does not require that the physician >personally= dispense medication, as it does in other areas of physician dispensing rules. Therefore, physicians at public health clinics may delegate that duty to nurses. This issue was brought forth as a result of an inquiry from a licensee.

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Committee Reports:

Licensing Committee:

- Commissioner Wayne Dyke reported that 12 candidates had been approved for licensure by reciprocity. They are: Jonathan Brantner, Renee Brantner, Eileen Critchley, Janet Kwende, Steven Mazzella, Tien Thuy Tuy Nguyen, Robert Oberlender, Willie Robinson, Deidra Simpson, Sam Solomon, Donna Topping, and Christopher Vigilio. All but four were approved for immediate licensure, with those four having their license held until results of the oral competency exam are received.
- Over 100 applications have been reviewed for the June laboratory examination June 15 and 16 (Thursday and Friday). The Licensing Committee will be reviewing a feasibility of a paper and pencil laboratory examination beginning in 2001.
- The Board was given a draft of a proposal to change regulations related to the closing of pharmacies. Suggested changes in the draft related to notifying the patient of closings and informing consumers of where their records will be sent to assure that the public notification is done by the date of closing.

Motion: Upon a motion by Commissioner Love and seconded by Commissioner Hawkins, the Board voted to change the word “patients” in section .02D to “the public”. And to change the words “patients are” in section .02E to “the public”. This will be further discussed at the next meeting, along with comments from the Division of Drug Control, which performs closing inspections.

Regulation and Legislation Update:

- Legislative Officer James Slade reported on the results of the legislative session which ended April 10, 2000.

HB178 (SB 484), ADrug Dealer Liability Act≅ passed with amendments which addressed the problems that the Board had with the original draft.

HB 181 AControlled Dangerous Substances Schedules≅ Marinol has been moved to Schedule III.

HB 783 APrescription Drugs -required labeling≅ did not pass.

HB 895 (SB 803) AHealth Insurance -prescription cards≅ did not pass, will be subject of a summer study.

HB 1101 (SB822) ANurse Psychotherapist prescribing≅ did not pass

HB 1115 APharmacies -record logs.≅ Passed with amendment. The Board discussed asking that the new statute be re-examined next year to clarify the definition of >record log.=

- Mr. Slade also provided an update on the status of regulations in process:

10:13.01 Changes the fee schedule for dispensing physicians, podiatrists, and dentists. It became

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effective March 6, 2000

10:13:04 Effective March 6, 2000, the change eliminates the requirement to put wording on prescription labels of non-CDS prescriptions that inform the patient that a prescription may not be refilled.

10:13:08 Effective March 6, 2000, pharmacists no longer have to maintain a log of syringe and paraphernalia sales, but are still responsible for determining the validity of the sale.

- Mr. Slade provided a copy of the Code of Conduct for Board Members and Investigators, and a copy of the BPQA Delegation of Acts by a Licensed Physician to an Assistant, which have been published in the Maryland register for comments.

Motion: On a motion by Commissioner Love, seconded by Commissioner Faltz-Jackson, the Board voted to oppose the provision that allows an unlicensed person to dispense medications selected by the physician, without on-site supervision. The Board wants the physician to be present to answer questions that the patient may have as well as to assure that the correct product is dispensed. This relates to .04: (D) (I) h and i.

- Mr. Slade also mentioned that the Board will not be allowed to issue a license to a pharmacist who is behind in child support payments after the Board is informed to do so by Child Support Enforcement Agency.

PEAC Committee

- Committee member Tom Carigulo reported about the data base hookup with the Board and of the search for ways to inform pharmacists of the activities of PEAC. A program is being developed for an October 19, 2000 session which may be held at the Maritime Institute, with potential speakers from the Maryland Board of Pharmacy, NABP, and APhA.

Practice Committee

- Commissioner Love reported that the proposed regulations on Outsourcing should be ready for the Board to review next month. The Automation regulations will be the main focus of the next Practice Committee meeting, on May 3, 2000.
- Commissioner Rubin presented the last draft of the Unlicensed Personnel regulations. Changes which the Board had requested last month were approved and two other changes were made: .03:B -- >ensure= changed to >assure=, and.04 (B) (2) c was changed from >controlled substances= to controlled dangerous substances.= A discussion was held about providing more defined measurements than >assure= but the Board decided to leave the wording as is to allow leeway for those affected by the regulation, and to meet the intent for the regulations to be >result oriented=.

Motion: On motion by Commissioner Rubin, seconded by Commissioner Faltz-Jackson, the Board approved the proposed regulation to be sent to the Maryland Register.

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- The Board discussed narrow therapeutic index drugs. The bill which Delegates Elliott Sophocleus, and Bozman introduced did not pass. The Secretary of Health of Mental Hygiene has delayed acting on the request of the Board of Pharmacy and BPQA to remove the NTI drugs from interchange limitations in Maryland. Information from a North Carolina study, which influenced Delegate Elliott, was provided and reviewed. There were many questions on the study which was co-authored by David Work, Executive Director of the North Carolina Board of Pharmacy, but attempts by mail and telephone to discuss the study with Mr. Work have not yet been successful. A letter was sent to the Delegate sponsors to tell them that the Board would be requesting a meeting to further study this information.

- Commissioner Love reported on the latest draft changes to the Department of Mental Health Proposed Nurse Dispensing Policy draft. A pharmacist will be included in the regulations; a health officer will be held responsible so the nurses involved will have access to a pharmacist consultant; a fee may not be charged for drugs or devices; and inspections must be allowed by DDC or Board of Pharmacy representatives.

Motion: On request by the physicians at the centers, the Board voted to approve the dispensing of methadone by nurses in these settings, but not on any other CDS item. The motion was made by Commissioner Schneider, seconded by Commissioner McCarthy-Hawkins.

Public Relations Committee/Counsel of Boards.

- Commissioner Barbara Faltz-Jackson reported that the media campaign is under way with paid radio advertisements, as well as free air time telling consumers that the “pharmacist cares”. Several members of the Committee (Nicole Brandt, Ruth Anderson, and Michelle Andoll) will be on a 30 minute radio discussion Saturday April 22, 2000. Commissioner John Balch will be on an infomercial April 30,2000. Notepads have been approved and are being printed as a giveaway promoting pharmacy. Commissioner Faltz- Jackson asked Board members to let her know if they can help distribute them. Postcards are also being printed.

- A logo is being designed for the campaign, and a web page is being constructed. Board members are asked to offer suggestions for links from the site.

- The Flower Mart will be held on May 17 at Mt. Vernon Place, with Board of Pharmacy manning a booth. Commissioner Furman is working with a \$500 budget for give-away items. Students and non-Board member pharmacists are being solicited to man the booth since the Board of Pharmacy has a meeting that morning. Since there is no Executive Session that day, BOP members are requested to attend the Flower Mart in the afternoon.

- The BOP website is being utilized well and is being continually added to.

- Commissioner Balch asked that a part-time contractual person be sought to help with public education and relations on a part time basis.

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Motion: On motion from Commissioner Balch, second by Commissioner Love, the motion to create a part-time position carried.

- Commissioner Faltz- Jackson reported on the Blended Instruction Grant. The Board of Education was informed that The Board is interested in working with the program, which will make students aware of the opportunities available in the health care professions, including pharmacy.

Budget Committee:

- Commissioner Lottier reported that the Board projects a \$12,000.00 carryover from fiscal year 2000, which ends June 30, 2000. Executive director Naesea said that the State has loosened restrictions on out of state travel for Boards. It would be able to afford sending consumer Commissioner Faltz - Jackson to the NABP Conference in Tennessee.

Questions of the Board:

The Board of Pharmacy considered whether pharmacists could give patients, if requested, prescribers-authorized refills at the same time that the original prescription is filled. According to the pharmacist that made the inquiry, the issue comes from a 3rd party processor claiming that it is illegal to do so. The Board determined that there is no specific law prohibiting this, but that the Board has no jurisdiction over PBM's (Pharmacy Benefits Managers') limitations on their programs.

Informational:

The following were provided as informational and not discussed.

Letters the Delegates Elliott, Bozman, and Sophocleus
Pharmacy Technician Article
Pharmacy Law Update 1/99 - 12/99 completed
Article: Are Pharmacists in Short Supply?
Article: Online Sale of Prescription Drugs
APhA Annual Meeting, March 10-14, 2000, report
Virginia Pharmacy Legislative Update
Response to Joseph S. Kaufman, Esq
Events Calendar for April and May 2000
Correspondence from NABP

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Follow-Up Letters

Response from CVS stating they would stop the advertisement that the Board was concerned about.

Respectfully submitted

W. Irvin Lottier Jr.

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